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(Original Signature of Member)

108TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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**IN THE HOUSE OF REPRESENTATIVES**

Mr. WAXMAN (for himself and Ms. SCHAKOWSKY) introduced the following  
bill; which was referred to the Committee on  
\_\_\_\_\_

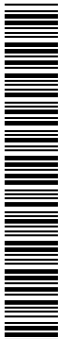
\_\_\_\_\_  
**A BILL**

To amend the Toxic Substances Control Act to reduce the  
health risks posed by asbestos-containing products.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ban Asbestos in Amer-  
5 ica Act of 2003”.



1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the Administrator of the Environmental  
4 Protection Agency has classified asbestos as a cat-  
5 egory A human carcinogen, the highest cancer haz-  
6 ard classification for a substance;

7 (2) there is no known safe level of exposure to  
8 asbestos;

9 (3)(A) in hearings before Congress in the early  
10 1970s, the example of asbestos was used to justify  
11 the need for comprehensive legislation on toxic sub-  
12 stances; and

13 (B) in 1976, Congress passed the Toxic Sub-  
14 stances Control Act (15 U.S.C. 2601 et seq.);

15 (4) in 1989, the Administrator promulgated  
16 final regulations under title II of the Toxic Sub-  
17 stances Control Act (15 U.S.C. 2641 et seq.) to  
18 phase out asbestos in consumer products by 1997;

19 (5) in 1991, the United States Court of Appeals  
20 for the 5th Circuit overturned portions of the regula-  
21 tions, and the Government did not appeal the deci-  
22 sion to the Supreme Court;

23 (6) as a result, while new applications for as-  
24 bestos were banned, asbestos is still being used in  
25 some consumer and industrial products in the  
26 United States;



1 (7) the United States Geological Survey has de-  
2 termined that in 2000, companies in the United  
3 States consumed 15,000 metric tons of chrysotile as-  
4 bestos, of which approximately 62 percent was con-  
5 sumed in roofing products, 22 percent in gaskets, 12  
6 percent in friction products, and 4 percent in other  
7 products;

8 (8) available evidence suggests that—

9 (A) imports of some types of asbestos-con-  
10 taining products may be increasing; and

11 (B) some of those products are imported  
12 from foreign countries in which asbestos is  
13 poorly regulated;

14 (9) many people in the United States incor-  
15 rectly believe that—

16 (A) asbestos has been banned in the  
17 United States; and

18 (B) there is no risk of exposure to asbestos  
19 through the use of new commercial products;

20 (10) the Department of Commerce estimates  
21 that in 2000, the United States imported 51,483  
22 metric tons of asbestos-cement products;

23 (11) banning asbestos from being used in or  
24 imported into the United States will provide cer-  
25 tainty to manufacturers, builders, environmental re-



1 mediation firms, workers, and consumers that after  
2 a specific date, asbestos will not be added to new  
3 construction and manufacturing materials used in  
4 this country;

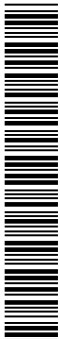
5 (12) asbestos has been banned in Argentina,  
6 Australia, Austria, Belgium, Chile, Croatia, the  
7 Czech Republic, Denmark, Finland, France, Ger-  
8 many, Iceland, Ireland, Italy, Latvia, Luxembourg,  
9 the Netherlands, Norway, Poland, Saudi Arabia, the  
10 Slovak Republic, Spain, Sweden, Switzerland, and  
11 the United Kingdom;

12 (13) asbestos will be banned throughout the  
13 European Union in 2005;

14 (14) in 2000, the World Trade Organization  
15 upheld the right of France to ban asbestos, with the  
16 United States Trade Representative filing a brief in  
17 support of the right of France to ban asbestos;

18 (15) the 1999 brief by the United States Trade  
19 Representative stated, "In the view of the United  
20 States, chrysotile asbestos is a toxic material that  
21 presents a serious risk to human health.";

22 (16) people in the United States have been ex-  
23 posed to harmful levels of asbestos as a contaminant  
24 of other minerals;



1 (17) in the town of Libby, Montana, workers  
2 and residents have been exposed to dangerous levels  
3 of asbestos for generations because of mining oper-  
4 ations at the W.R. Grace vermiculite mine located in  
5 that town;

6 (18) the Agency for Toxic Substances and Dis-  
7 ease Registry found that over a 20-year period,  
8 “mortality in Libby resulting from asbestosis was  
9 approximately 40 to 80 times higher than expected.  
10 Mesothelioma mortality was also elevated.”;

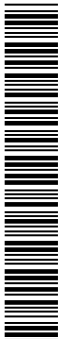
11 (19)(A) in response to this crisis, in January  
12 2002, the Governor of Montana requested that the  
13 Administrator of the Environmental Protection  
14 Agency designate Libby as a Superfund site; and

15 (B) on October 23, 2002, the Administrator  
16 placed Libby on the National Priorities List;

17 (20)(A) vermiculite from Libby was shipped for  
18 processing to 42 States; and

19 (B) Federal agencies are investigating potential  
20 harmful exposures to asbestos-contaminated ver-  
21 miculite at sites throughout the United States;

22 (21) the Administrator has identified 14 sites  
23 that have dangerous levels of asbestos-tainted ver-  
24 miculite and require cleanup efforts; and



1 (22) although it is impracticable to eliminate  
2 exposure to asbestos entirely because asbestos is a  
3 naturally occurring mineral in the environment and  
4 occurs in several deposits throughout the United  
5 States, Congress needs to do more to protect the  
6 public from exposure to asbestos and Congress has  
7 the power to prohibit the continued, intentional use  
8 of asbestos in consumer products.

9 **SEC. 3. ASBESTOS-CONTAINING PRODUCTS.**

10 (a) IN GENERAL.—Title II of the Toxic Substances  
11 Control Act (15 U.S.C. 2641 et seq.) is amended—

12 (1) by inserting before section 201 (15 U.S.C.  
13 2641) the following:

14 **“Subtitle A—General Provisions”;**

15 and

16 (2) by adding at the end the following:

17 **“Subtitle B—Asbestos-Containing**  
18 **Products**

19 **“SEC. 221. DEFINITIONS.**

20 “In this subtitle:

21 “(1) ASBESTOS-CONTAINING PRODUCT.—The  
22 term ‘asbestos-containing product’ means any prod-  
23 uct (including any part) to which asbestos is delib-  
24 erately or knowingly added or in which asbestos is  
25 deliberately or knowingly used in any concentration.



1           “(2) CONTAMINANT-ASBESTOS PRODUCT.—The  
2           term ‘contaminant-asbestos product’ means any  
3           product that contains asbestos as a contaminant of  
4           any mineral or other substance, in any concentra-  
5           tion.

6           “(3) DISTRIBUTE IN COMMERCE.—

7                   “(A) IN GENERAL.—The term ‘distribute  
8           in commerce’ has the meaning given the term  
9           in section 3.

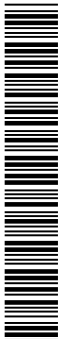
10                   “(B) EXCLUSIONS.—The term ‘distribute  
11           in commerce’ does not include—

12                           “(i) an action taken with respect to  
13                           an asbestos-containing product in connec-  
14                           tion with the end use of the asbestos-con-  
15                           taining product by a person that is an end  
16                           user; or

17                           “(ii) distribution of an asbestos-con-  
18                           taining product by a person solely for the  
19                           purpose of disposal of the asbestos-con-  
20                           taining product in compliance with applica-  
21                           ble Federal, State, and local requirements.

22           “(4) DURABLE FIBER.—

23                   “(A) IN GENERAL.—The term ‘durable  
24           fiber’ means a silicate fiber that—



1 “(i) occurs naturally in the environ-  
2 ment; and

3 “(ii) is similar to asbestos in—

4 “(I) resistance to dissolution;

5 “(II) leaching; and

6 “(III) other physical, chemical,  
7 or biological processes expected from  
8 contact with lung cells and other cells  
9 and fluids in the human body.

10 “(B) INCLUSIONS.—The term ‘durable  
11 fiber’ includes—

12 “(i) richterite;

13 “(ii) winchite;

14 “(iii) erionite; and

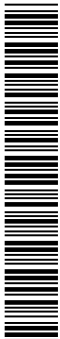
15 “(iv) nonasbestiform varieties of cro-  
16 cidolite, amosite, anthophyllite, tremolite,  
17 and actinolite.

18 “(5) FIBER.—The term ‘fiber’ means an acie-  
19 ular single crystal or similarly elongated  
20 polycrystalline aggregate particle with a length to  
21 width ratio of 3 to 1 or greater.

22 “(6) PERSON.—The term ‘person’ means—

23 “(A) any individual;

24 “(B) any corporation, company, associa-  
25 tion, firm, partnership, joint venture, sole pro-





1           prietorship, or other for-profit or nonprofit  
2           business entity (including any manufacturer,  
3           importer, distributor, or processor);

4                   “(C) any Federal, State, or local depart-  
5           ment, agency, or instrumentality; and

6                   “(D) any interstate body.

7   **“SEC. 222. NATIONAL ACADEMY OF SCIENCES STUDY.**

8           “The Administrator shall enter into a contract with  
9   the National Academy of Sciences to study and, not later  
10 than 18 months after the date of enactment of this sub-  
11 title, provide the Administrator, and other Federal agen-  
12 cies, as appropriate—

13                   “(1) a description of the current state of the  
14   science relating to the human health effects of expo-  
15   sure to asbestos and other durable fibers; and

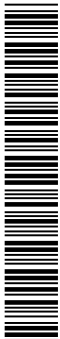
16                   “(2) recommendations for the establishment  
17   of—

18                           “(A) a uniform system for the establish-  
19   ment of asbestos exposure standards for work-  
20   ers, school children, and other populations; and

21                           “(B) a uniform system for the establish-  
22   ment of protocols for detecting and measuring  
23   asbestos.

24   **“SEC. 223. ASBESTOS POLICIES PANEL.**

25           “(a) PANEL.—



1           “(1) IN GENERAL.—The Administrator shall es-  
2           tablish an Asbestos Policies Panel (referred to in  
3           this section as the ‘panel’) to study asbestos and  
4           other durable fibers.

5           “(2) MEMBERSHIP.—The panel shall be com-  
6           prised of representatives of—

7                   “(A) the Secretary of Labor;

8                   “(B) the Secretary of Health and Human  
9           Services; and

10                   “(C) the Chairman of the Consumer Prod-  
11           uct Safety Commission;

12                   “(D) nongovernmental environmental, pub-  
13           lic health, and consumer organizations;

14                   “(E) industry;

15                   “(F) school officials;

16                   “(G) public health officials;

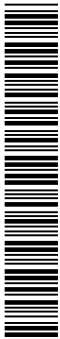
17                   “(H) labor organizations; and

18                   “(I) the public.

19           “(b) DUTIES.—The panel shall—

20                   “(1) provide independent advice and counsel to  
21           the Administrator and other Federal agencies on  
22           policy issues associated with the use and manage-  
23           ment of asbestos and other durable fibers; and

24                   “(2) study and, not later than 2 years after the  
25           date of enactment of this subtitle, provide the Ad-



1        administrator, other Federal agencies, and Congress  
2        recommendations concerning—

3                “(A) implementation of subtitle A;

4                “(B) grant programs under subtitle A;

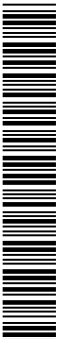
5                “(C) revisions to the national emissions  
6        standards for hazardous air pollutants promul-  
7        gated under the Clean Air Act (42 U.S.C. 7401  
8        et seq.);

9                “(D) legislative and regulatory options for  
10       improving consumer and worker protections  
11       against harmful health effects of exposure to  
12       asbestos and durable fibers;

13               “(E) whether the definition of asbestos-  
14       containing material, meaning any material that  
15       contains more than 1 percent asbestos by  
16       weight, should be modified throughout the Code  
17       of Federal Regulations;

18               “(F) the feasibility of establishing a dura-  
19       ble fibers testing program;

20               “(G) options to improve protections  
21       against exposure to asbestos from asbestos-con-  
22       taining products and contaminant-asbestos  
23       products in buildings;



1           “(H) current research on and technologies  
2           for disposal of asbestos-containing products and  
3           contaminant-asbestos products; and

4           “(I) at the option of the panel, the effects  
5           on human health that may result from exposure  
6           to ceramic, carbon, and other manmade fibers.

7   **“SEC. 224. STUDY OF ASBESTOS-CONTAINING PRODUCTS**  
8           **AND CONTAMINANT-ASBESTOS PRODUCTS.**

9           “(a) IN GENERAL.—In consultation with the Sec-  
10   retary of Labor, the Chairman of the International Trade  
11   Commission, the Chairman of the Consumer Product  
12   Safety Commission, and the Assistant Secretary for Occu-  
13   pational Safety and Health, the Administrator shall con-  
14   duct a study on the status of the manufacture, processing,  
15   distribution in commerce, ownership, importation, and dis-  
16   posal of asbestos-containing products and contaminant-as-  
17   bestos products in the United States.

18          “(b) ISSUES.—In conducting the study, the Adminis-  
19   trator shall examine—

20           “(1) how consumers, workers, and businesses  
21           use asbestos-containing products and contaminant-  
22           asbestos products that are entering commerce as of  
23           the date of enactment of this subtitle; and

24           “(2) the extent to which consumers and work-  
25           ers are being exposed to unhealthful levels of asbes-



1       tos through exposure to products described in para-  
2       graph (1).

3       “(c) REPORT.—Not later than 18 months after the  
4       date of enactment of this subtitle, the Administrator shall  
5       submit to the Committee on Energy and Commerce of the  
6       House of Representatives and the Committee on Environ-  
7       ment and Public Works of the Senate a report on the re-  
8       sults of the study.

9       **“SEC. 225. PROHIBITION ON ASBESTOS-CONTAINING PROD-**  
10       **UCTS.**

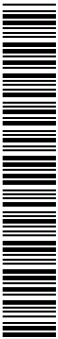
11       “(a) IN GENERAL.—Subject to subsection (b), the  
12       Administrator shall promulgate—

13               “(1) not later than 1 year after the date of en-  
14       actment of this subtitle, proposed regulations that—

15                       “(A) prohibit persons from manufacturing,  
16       processing, or distributing in commerce asbes-  
17       tos-containing products; and

18                       “(B) provide for implementation of sub-  
19       sections (b) and (c); and

20       “(2) not later than 2 years after the date of en-  
21       actment of this subtitle, final regulations that, effec-  
22       tive 60 days after the date of promulgation, prohibit  
23       persons from manufacturing, processing, or distrib-  
24       uting in commerce asbestos-containing products and



1 provide for implementation of subsections (b) and  
2 (c).

3 “(b) EXEMPTIONS.—

4 “(1) IN GENERAL.—Any person may petition  
5 the Administrator for an exemption from the re-  
6 quirements of subsection (a), and the Administrator  
7 may grant such an exemption if the Administrator  
8 determines that—

9 “(A) the exemption would not result in an  
10 unreasonable risk of injury to public health or  
11 the environment; and

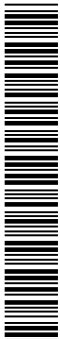
12 “(B) the person has made good faith ef-  
13 forts to develop, but has been unable to develop,  
14 a substance, or identify a mineral, that—

15 “(i) does not present an unreasonable  
16 risk of injury to public health or the envi-  
17 ronment; and

18 “(ii) may be substituted for an asbes-  
19 tos-containing product.

20 “(2) TERMS AND CONDITIONS.—An exemption  
21 granted under this subsection shall be in effect for  
22 such period (not to exceed 1 year) and subject to  
23 such terms and conditions as the Administrator may  
24 prescribe.

25 “(c) DISPOSAL.—



1           “(1) IN GENERAL.—Except as provided in para-  
2       graph (2), not later than 3 years after the date of  
3       enactment of this subtitle, each person that pos-  
4       sesses an asbestos-containing product that is subject  
5       to the prohibition established under this section shall  
6       dispose of the asbestos-containing product, by a  
7       means that is in compliance with applicable Federal,  
8       State, and local requirements.

9           “(2) EXEMPTION.—Nothing in paragraph (1)—  
10           “(A) applies to an asbestos-containing  
11       product that—

12                   “(i) is no longer in the stream of com-  
13       merce; or

14                   “(ii) is in the possession of an end  
15       user; or

16           “(B) requires that an asbestos-containing  
17       product described in subparagraph (A) be re-  
18       moved or replaced.

19   **“SEC. 226. PUBLIC EDUCATION PROGRAM.**

20           “(a) IN GENERAL.—Not later than 2 years after the  
21       date of enactment of this subtitle, and subject to sub-  
22       section (c), in consultation with the Chairman of the Con-  
23       sumer Product Safety Commission and the Secretary of  
24       Labor, the Administrator shall establish a program to in-  
25       crease awareness of the dangers posed by asbestos-con-



1 taining products and contaminant-asbestos products in  
2 homes and workplaces.

3 “(b) GREATEST RISKS.—In establishing the pro-  
4 gram, the Administrator shall—

5 “(1) base the program on the results of the  
6 study conducted under section 224;

7 “(2) give priority to asbestos-containing prod-  
8 ucts and contaminant-asbestos products used by  
9 consumers and workers that pose the greatest risk  
10 of injury to human health; and

11 “(3) at the option of the Administrator on re-  
12 ceipt of a recommendation from the Asbestos Poli-  
13 cies Panel, include in the program the conduct of  
14 projects and activities to increase public awareness  
15 of the effects on human health that may result from  
16 exposure to—

17 “(A) durable fibers; and

18 “(B) ceramic, carbon, and other manmade  
19 fibers.

20 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated such sums as are nec-  
22 essary to carry out this section.”.

23 (b) VERMICULITE INSULATION.—Not later than 180  
24 days after the date of enactment of this Act, the Adminis-  
25 trator of the Environmental Protection Agency and the





1 Consumer Product Safety Commission shall begin a na-  
2 tional campaign to educate consumers concerning—

3 (1) the dangers of vermiculite insulation that  
4 may be contaminated with asbestos; and

5 (2) measures that homeowners and business  
6 owners can take to protect against those dangers.

7 **SEC. 4. ASBESTOS-CAUSED DISEASES.**

8 Subpart 1 of part C of title IV of the Public Health  
9 Service Act (42 U.S.C. 285 et seq.) is amended by adding  
10 at the end the following:

11 **“SEC. 417D. RESEARCH ON ASBESTOS-CAUSED DISEASES.**

12 “(a) IN GENERAL.—The Secretary, acting through  
13 the Director of NIH and the Director of the Centers for  
14 Disease Control and Prevention, shall expand, intensify,  
15 and coordinate programs for the conduct and support of  
16 research on diseases caused by exposure to asbestos, par-  
17 ticularly mesothelioma, asbestosis, and pleural injuries.

18 “(b) ADMINISTRATION.—The Secretary shall carry  
19 out this section—

20 “(1) through the Director of NIH and the Di-  
21 rector of the CDC (Centers for Disease Control and  
22 Prevention); and

23 “(2) in collaboration with the Administrator of  
24 the Agency for Toxic Substances and Disease Reg-



1        istry and the head of any other agency that the Sec-  
2        retary determines to be appropriate.

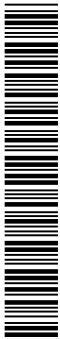
“(c) MESOTHELIOMA REGISTRY.—Not later than 1 year after the date of enactment of this section, the Director of the Centers for Disease Control and Prevention, in cooperation with the Director of the National Institute for Occupational Safety and Health and the Administrator of the Agency for Toxic Substances and Disease Registry, shall establish a mechanism by which to obtain data from State cancer registries and other cancer registries, which shall form the basis for establishing a Mesothelioma Registry.

13           “(d) AUTHORIZATION OF APPROPRIATIONS.—In ad-  
14   dition to amounts made available for the purposes de-  
15   scribed in subsection (a) under other law, there are au-  
16   thorized to be appropriated to carry out this section such  
17   sums as are necessary for fiscal year 2004 and each fiscal  
18   year thereafter.

19 "SEC. 417E. MESOTHELIOMA RESEARCH AND TREATMENT  
20 CENTERS.

21       “(a) IN GENERAL.—The Director of NIH shall pro-  
22 vide \$1,000,000 for each of fiscal years 2004 through  
23 2008 for each of up to 10 mesothelioma disease research  
24 and treatment centers.

25 “(b) REQUIREMENTS.—The Centers shall—



1 “(1) be chosen through competitive peer review;

2 “(2) be geographically distributed throughout  
3 the United States with special consideration given to  
4 areas of high incidence of mesothelioma disease;

5 “(3) be closely associated with Department of  
6 Veterans Affairs medical centers to provide research  
7 benefits and care to veterans, who have suffered ex-  
8 cessively from mesothelioma;

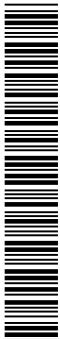
9 “(4) be engaged in research to provide mecha-  
10 nisms for detection and prevention of mesothelioma,  
11 particularly in the areas of pain management and  
12 cures;

13 “(5) be engaged in public education about  
14 mesothelioma and prevention, screening, and treat-  
15 ment;

16 “(6) be participants in the National Mesothelioma Registry;

17 “(7) be coordinated in their research and treat-  
18 ment efforts with other Centers and institutions in-  
19 volved in exemplary mesothelioma research; and

20 “(8) be focused on research and treatments for  
21 mesothelioma that have historically been under-  
22 funded.  
23



1 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
2 is authorized to be appropriated to carry out this section  
3 \$10,000,000 for each of fiscal years 2004 through 2008.”.

4 **SEC. 5. CONFORMING AMENDMENTS.**

5 The table of contents in section 1 of the Toxic Sub-  
6 stances Control Act (15 U.S.C. prec. 2601) is amended—

7 (1) by inserting before the item relating to sec-  
8 tion 201 the following:

“Subtitle A—General Provisions”;

9 and

10 (2) by adding at the end of the items relating  
11 to title II the following:

“Subtitle B—Asbestos-Containing Products

“Sec. 221. Definitions.

“Sec. 222. National Academy of Sciences Study.

“Sec. 223. Asbestos Policies Panel.

“Sec. 224. Study of asbestos-containing products and contaminant-asbes-  
tos products.

“Sec. 225. Prohibition on asbestos-containing products.

“Sec. 226. Public education program.”.

